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# SENATE BILL No. 431

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-5; IC 4-3-19; IC 4-22; IC 20-10.1-16; IC 22-12; IC 22-13-2; IC 36-1-12-3.

**Synopsis:** Repeal of study commissions. Eliminates the following statutory committees: (1) The probate code study commission. (2) The administrative rules oversight committee. (3) The census data advisory committee. (4) The commission on military and veterans affairs. (5) The health finance advisory committee. (6) The health policy advisory committee. (7) The public highway private enterprise review board. (8) The ISTEP program citizens' review committee. (9) The regulated amusement device safety board. Repeals statutes relating to these committees. Makes conforming changes to other statutes, including the assignment of certain duties of the administrative rules oversight committee to a committee to be designated by the chairman of the legislative council.

**Effective:** July 1, 2005.

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**Miller**

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January 13, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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## SENATE BILL No. 431

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 2-5-16 IS REPEALED [EFFECTIVE JULY 1,
- 2 2005].
- 3 SECTION 2. IC 2-5-18 IS REPEALED [EFFECTIVE JULY 1,
- 4 2005].
- 5 SECTION 3. IC 4-22-2-19 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as
- 7 provided in section 23.1 of this chapter, this section does not apply to
- 8 the adoption of rules:
- 9 (1) required by statute if initiation of the rules is contingent upon
- 10 the receipt of a waiver under federal law;
- 11 (2) that amend an existing rule;
- 12 (3) required by statutes enacted before June 30, 1995; or
- 13 (4) required by statutes enacted before June 30, 1995, and
- 14 recodified in the same or similar form after June 29, 1995, in
- 15 response to a program of statutory recodification conducted by the
- 16 code revision commission.
- 17 (b) If an agency will have statutory authority to adopt a rule at the



time that the rule becomes effective, the agency may conduct any part of its rulemaking action before the statute authorizing the rule becomes effective.

(c) However, an agency shall:

(1) begin the rulemaking process not later than sixty (60) days after the effective date of the statute that authorizes the rule; or

(2) if an agency cannot comply with subdivision (1), immediately provide written notification to the ~~administrative rules oversight~~ committee **designated by the chairman of the legislative council** stating the reasons for the agency's noncompliance.

If an agency notifies the administrative rules oversight committee concerning a rule in compliance with subdivision (2), failure to adopt the rule within the time specified in subdivision (1) does not invalidate the rule.

SECTION 4. IC 4-22-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) An agency has one (1) year from the date that it publishes a notice of intent to adopt a rule in the Indiana Register under section 23 of this chapter to comply with sections 26 through 33 of this chapter and obtain the approval or deemed approval of the governor. If an agency determines that a rule cannot be adopted within one (1) year after the publication of the notice of intent to adopt a rule under section 23 of this chapter, the agency shall, before the two hundred fiftieth day following the publication of the notice of intent to adopt a rule under section 23 of this chapter, notify the chairperson of the ~~administrative oversight~~ committee **designated by the chairman of the legislative council** in writing of the:

(1) reasons why the rule was not adopted and the expected date the rule will be completed; and

(2) expected date the rule will be approved or deemed approved by the governor or withdrawn under section 41 of this chapter.

(b) If a rule is not approved before the later of:

(1) one (1) year after the agency publishes notice of intent to adopt the rule under section 23 of this chapter; or

(2) the expected date contained in a notice concerning the rule that is provided to the ~~administrative rules oversight~~ committee **designated by the chairman of the legislative council** under subsection (a)(2);

a later approval or deemed approval is ineffective, and the rule may become effective only through another rulemaking action initiated under this chapter.

SECTION 5. IC 4-22-2-46 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. The ~~administrative rules oversight committee shall~~ **chairman of the legislative council, with the advice of the vice chairman of the legislative council, may assign a committee under the jurisdiction of the legislative council** to carry out a program to review each rule adopted under this chapter that has a fiscal impact of more than five hundred thousand dollars (\$500,000) for the following:

- (1) Economic impact.
- (2) Compliance with the intent of the general assembly.
- (3) The extent to which the rule creates an unfunded mandate on any state agency or political subdivision.
- (4) The extent to which the rule complies with the standards in IC 4-22-2-19.5.

SECTION 6. IC 4-22-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) This section applies to the following agency statements:

- (1) Executive orders issued by the governor.
- (2) Notices that a rule has been disapproved or objected to by the attorney general under IC 4-22-2-32 or IC 4-22-2-38, or disapproved or objected to by the governor under IC 4-22-2-34 or IC 4-22-2-38.
- (3) Official opinions of the attorney general (excluding advisory letters).
- (4) Official explanatory opinions of the state board of accounts based on an official opinion of the attorney general.
- (5) Any other statement:
  - (A) that:
    - (i) interprets, supplements, or implements a statute or rule;
    - (ii) has not been adopted in compliance with IC 4-22-2;
    - (iii) is not intended by its issuing agency to have the effect of law; and
    - (iv) may be used in conducting the agency's external affairs;
  - or
  - (B) that specifies a policy that an agency relies upon to:
    - (i) enforce a statute or rule;
    - (ii) conduct an audit or investigation to determine compliance with a statute or rule; or
    - (iii) impose a sanction for violation of a statute or rule.

This subdivision includes information bulletins, revenue rulings (including, subject to IC 6-8.1-3-3.5, a letter of findings), and other guidelines of an agency.

- (6) A statement of the governor concerning extension of an

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approval period under IC 4-22-2-34.

(b) Whenever an agency adopts a statement described by subsection (a), the agency shall distribute two (2) duplicate copies of the statement to the publisher for publication and indexing in the Indiana Register and the copies required by IC 4-23-7.1-26 to the Indiana library and historical department. However, if a statement under subsection (a)(5)(B) is in the form of a manual, book, pamphlet, or reference publication, the publisher is required to publish only the title of the manual, book, or reference publication.

(c) Every agency that adopts a statement described under subsection (a) also shall maintain a current list of all agency statements described in subsection (a) that it may use in its external affairs. The agency shall update the listing at least every thirty (30) days. The agency shall include on the list the name of the agency and the following information for each statement:

- (1) Title.
- (2) Identification number.
- (3) Date originally adopted.
- (4) Date of last revision.
- (5) Reference to all other statements described in subsection (a) that are repealed or amended by the statement.
- (6) Brief description of the subject matter of the statement.

(d) At least quarterly, every agency that maintains a list under subsection (c) shall distribute two (2) copies of the list to the publisher and two (2) copies to the Indiana library and historical department and the ~~administrative rules oversight committee~~ **legislative council**.

SECTION 7. IC 2-5-19 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 8. IC 2-5-1.1-12.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.2. (a) The definitions in IC 1-1-3.5 and IC 3-5-2 apply throughout this section.

(b) As used in this section, "~~committee~~" "**bureau**" refers to the ~~census data advisory committee established by IC 2-5-19-2~~ **United States Bureau of the Census**.

(c) As used in this section, "council" refers to the legislative council established by section 1 of this chapter.

(d) As used in this section, "GIS" refers to the geographic information system that the office is required to establish and maintain under subsection (g)(9).

(e) As used in this section, "office" refers to the office of census data established by subsection (f).

(f) The office of census data is established within the legislative

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services agency. Appointment of staff members of the office is subject to the approval of the legislative council.

(g) The office shall do the following:

(1) Advise and assist the Bureau ~~of the Census~~ and the committee in defining the boundaries of census blocks in Indiana.

(2) Advise and assist the committee in coordinating the state's efforts to obtain an accurate population count in each federal decennial census.

(3) Work with other state and federal agencies to assist in the ~~Census~~ Bureau's local review program conducted in Indiana.

(4) Participate in national associations of state governments to obtain information regarding census count activities conducted by other states.

(5) Advise and assist the committee in the preparation and organization of decennial census data for use in congressional and state legislative redistricting.

(6) Work with political subdivisions following each decennial census to provide information and assistance concerning special censuses, special tabulations, and corrected population counts.

(7) Work with the election division, state agencies, and political subdivisions to maintain accurate information concerning the boundaries of precincts and political subdivisions.

(8) Provide technical assistance to counties, the election commission, and the election division to comply with Indiana law concerning establishing a precinct (as defined in IC 3-11-1.5-1).

(9) Establish and maintain a geographic information system that contains the boundaries of all precincts, legislative districts, and congressional districts. The geographic information system may contain other boundaries and information as determined by the executive director of the legislative services agency or as required by the council.

(10) Perform other census and mapping research as determined by the executive director of the legislative services agency or as required by the council.

(h) The office shall provide the election division a network connection to the GIS. The network connection must do the following:

(1) Provide the election division with read access to the GIS.

(2) Enable the election division to download any information, including maps, contained in the GIS.

(i) The election division is the agency through which public access to information contained in the GIS shall be provided.

SECTION 9. IC 2-5-20 IS REPEALED [EFFECTIVE JULY 1,

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SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 2-5-23-2; IC 2-5-23-6; IC 2-5-23-7; IC 2-5-23-8; IC 2-5-23-9; IC 2-5-23-10; IC 2-5-23-12.

SECTION 11. IC 2-5-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. Each member of the commission ~~each member of the health finance advisory committee, and each member of the health policy advisory committee~~ is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative ~~and lay~~ members ~~respectively~~, of interim study committees established by the legislative council.

SECTION 12. IC 4-3-19 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 13. IC 36-1-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than one hundred thousand dollars (\$100,000). Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes the actual cost of materials, labor, equipment, rental, a reasonable rate for use of trucks and heavy equipment owned, and all other expenses incidental to the performance of the project.

(b) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(c) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than fifty thousand dollars (\$50,000).

(d) Municipal and county hospitals must comply with this chapter

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for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars (\$50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(e) **For purposes of this subsection, "department" refers to a public highway department that is:**

**(1) under the political control of a unit; and**

**(2) involved in the construction, maintenance, or repair of a public highway (as defined in IC 9-25-2-4).**

If a public works project involves a structure, an improvement, or a facility under the control of a department, ~~(as defined in IC 4-3-19-2(2))~~; the department may not artificially divide the project to bring any part of the project under this section.

SECTION 14. IC 20-10.1-16-5.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 15. IC 20-10.1-16-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.2. General language arts essay scoring rubrics shall be made available to the public by the department at least four (4) months before the administration of a test. An essay question, a scoring rubric, or an anchor paper used in the ISTEP program must comply with the following:

(1) For an essay question, have a prompt that is taken from

~~(A) a textbook on the state textbook adoption list included in IC 20-10.1-9. or~~

~~(B) a source other than a source listed in clause (A) that is approved by the ISTEP program citizens' review committee established by section 5-5 of this chapter.~~

(2) Not seek or compile information about a student's:

(A) personal attitudes;

(B) political views;

(C) religious beliefs;

(D) family relationships; or

(E) other matters listed in IC 20-10.1-4-15(b).

~~The ISTEP program citizens' review committee established by section 5-5 of this chapter shall determine whether an essay question or a scoring rubric complies with this subdivision.~~

SECTION 16. IC 22-12-4.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 17. IC 22-12-6-15 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) As used in this section, "credit card" means a bank card, debit card, charge card, prepaid card, or other similar device used for payment.

(b) In addition to other methods of payment allowed by law, the department may accept payment by credit card for certifications, licenses, and fees, and other amounts payable to the following:

- (1) The department.
- (2) The state emergency management agency.
- (3) The public safety institute.
- (4) The fire prevention and building safety commission.
- ~~(5) The regulated amusement device safety board.~~
- ~~(6)~~ (5) The boiler and pressure vessel rules board.
- ~~(7)~~ (6) The Indiana emergency management, fire and building services, and public safety training foundation.
- ~~(8)~~ (7) The office of the state fire marshal.
- ~~(9)~~ (8) The office of the state building commissioner.

(c) The department may enter into appropriate agreements with banks or other organizations authorized to do business in Indiana to enable the department to accept payment by credit card.

(d) The department may recognize net amounts remitted by the bank or other organization as payment in full of amounts due the department.

(e) The department may pay any applicable credit card service charge or fee.

SECTION 18. IC 22-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) Except as provided in subsection (c), subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:

- (1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.
- (2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.
- (3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.
- (4) Any subsequent editions of the codes listed in subdivisions (1) through (3).

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(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the secretary of state.

(2) The date a permanent rule is adopted under IC 4-22-2.

~~(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.~~

SECTION 19. IC 22-13-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The commission ~~or the rules board or the regulated amusement device safety board established by IC 22-12-4.5-2~~ may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

(1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the body adopting the rule;

will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision.

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